

TERMINAL DISCLAIMER IN COMPLIANCE WITH 37 CFR 1.321 (C)

I enclose herewith a Terminal Disclaimer To Obviate A Provisional Double Patenting Rejection Over A Prior Patent to overcome the rejection over my prior patent, #5,863,042, issued on Jan 26, 1999.

NOTICE OF COPENDING APPLICATION

In accordance with MPEP 2001.06 (b), Applicant brings to the Examiner's attention the following copending application of Application: 10/422,379, filed on 4/24/2003.

REMARKS / ARGUMENTS

Paragraph [0029] of the Specification of the present invention has been amended to change and correct a singular form of 'hand' one page 5, in paragraph [0029], line 3, second word, to a plural form 'hands.'

The new paragraph [0038] has been added to the Specification of the present invention to conclude with claims particularly pointing out and distinctly claiming the subject matter which I regard as my present invention.

Claim 5 is amended to include words "further including," to provide an antecedent basis for the limitation "the community card or cards" in the claim. This limitation is taught in the paragraph [0036] (lines 2-8) of the specification of the present invention.

Claim 13-16 are amended to correct each said claim into one sentence format from several sentences as originally filed. No change in meaning is intended.

Claim 17 is amended to change a singular form of 'hand' in paragraph [0029] (line 3, second word) to a plural form 'hands,' and to correct claim 17 into one sentence format from several sentences as originally filed. Amended claim 17 recites one of different sets of rules of settling a Poker wager and this limitation is found in paragraph [0029] of the specification.

In the Office Action mailed April 07, 2004, claims 1-4, and 6-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wirth in view of Lo 042', and claim 5 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Wirth in view of Lo 042' as applied to claim 1 and further in view of Perkins. I respectfully disagree with this conclusion. Reconsideration of the application as amended and under my arguments below is respectfully requested.

Wirth (5,845,906):

Wirth, many patented card games invented before and after Wirth, and my present invention all teach a card game with a plurality of players and a banker (dealer) using one standard playing card deck. This common teaching is one of necessary steps of a method of playing a card game, which apparently does not make any two said games patentably identical. Therefore, many card games with said teaching have been patented.

Wirth discloses a draw poker game (claim 1) in which players and a banker are given an option of discarding one of their dealt cards and drawing a replacement card, while my present invention discloses a stud poker, which offers no said option. Wirth teaches that after placing an Ante wager in the Ante zone 14 playing against the banker's hand and a six-card wager in the Card zone 15 for an option of buying an additional card, each player and the banker is each dealt five cards and one optional sixth card (Abstract); after looking at his or her five cards, each said player has to decide whether playing out his or her hand or folding his or her hand; if each said player opts to fold, he or she forfeit his or her ante wager and get back his or her six-card wager; if he or she opts to play, he or she must place a third wager competing with other players for the best hand pot (whoever has the highest ranking hand with 3 of a kind or better wins the pot) (col. 3, lines 4-7); if he or she opts to play and stand pat (does not utilize a sixth card), his or her sixth-card wager will return to him or her; if he or she opts to play and utilize a sixth card, he or she will lose his or her sixth-card wager; if the player or the banker stands pat, then he or she uses only five cards as his or her hand; if the player opts to buy his or her sixth card, he or she will select the best 5-card hand for his or her total six cards as his or her hand; if the banker opts to draw his or her sixth card, he or she must discard one card from his or her initial 5 cards first and then utilizes his or her sixth card, thus, the banker has a disadvantage over the player for having less chances of getting better hands than the player. My present invention teaches that after placing at least one of wagers of Poker Bet, Specified One Pair Bet, Two Pair Bet, 3 of a Kind Bet and Bonus Bet, every player and a banker are each dealt six cards, and each player and the banker select their best 5-card hand from their six dealt cards, neither the player nor the banker has an advantage over his or her opponent. Accordingly, it has been obvious that the method of playing a stud poker game of my present invention is quite different from and much simpler to play than the method of playing a draw poker game of Wirth.

In Wirth, a player's wagers are settled as follows: (1) The player's Ante wager wins and is paid even money (1 to 1) if the player's hand ranks higher than the banker's hand according to the conventional poker rankings, wherein hands are ranked in descending order as follows: Royal Flush, Straight Flush, 4 of a Kind, Full House, Flush, Straight, 3 of a Kind, Two Pair, One Pair and High Card; the player's Ante's wager pushes and neither wins nor loses if the player's and the banker's hand rank the same; and the player's Ante's wager loses if the player's hand ranks lower than the banker's. (2) The player wins the Best Hand Bonus pot if the player's hand is 3 of a Kind or better and has the highest rank among all other participating players. (3) The player receives a bonus or premium payout if the player's hand is Straight or better. In my present invention, a player's wagers are settled as follows: (1) The player's Poker wager wins and is paid even money (1 to 1) in most cases if the player's best 5-card hand ranks higher than the banker's best 5-card hand according to the rankings of my present invention (which have no rankings of Straights and Flushes), wherein hands are ranked in descending order as follows: 4 of a Kind, 3 of a Kind, Two Pair, One Pair, 9 points, 8 points, 7points, 6 points, 5 points, 4 points, 3 points and 2 points; the player's side bet wager wins and is paid according to a predetermined pay table if the player's best 5-card hand is one of the determined winning hands. Accordingly, there are huge differences in settling a player's wagers between the teachings of Wirth and my present invention; therefore, the rejection over Wirth is respectfully traversed.

Lo (5,863,042)

Lo 042 is my prior patent, which offers side-bet wagers that are similar to those of my present invention on different individual poker hands and point values of 9 points to 0 points. Therefore,

I hereby submit a Terminal Disclaimer To Obviate A Double Patenting Rejection Over A Prior Patent to overcome this rejection.

Perkins (6,234,485)

Perkins teaches that his invention provides a community card as a card of the standard number of cards dealt and is used in combination with other cards held by a player (col. 2, lines 35-40).

In my opinion, including one or more community cards in a card game would have made Wirth's game less exciting to play, the more community cards used the fewer cards available for players to read to obtain the fun of reading cards; nevertheless, including one or more community cards in a card game would provide a card game the following benefits:

Benefit 1 is to accommodate more players to participate in the game. For example, a 7-card game that uses one standard deck of 52 cards and seats eight players; if every player is dealt 7 cards, there are not enough seven cards for every player ($7 \text{ cards} \times 8 \text{ players} = 56 \text{ cards}$; $56 \text{ cards} - 52 \text{ cards results in 4 cards short}$); if one or more community cards are used, there are enough seven cards for each of eight players; the more community cards used the more players can participate in the game;

Benefit 2 is to reduce the number of cards that needs to be dealt in order to speed up the play of game; and

Benefit 3 is to provide the game as a whole more thorough patent protection in the event that some copycat comes up with an identical game that discloses having community cards.

A card game that has one or more community cards, mathematically speaking, neither enhances game player chances at bigger payout nor changes the odds and outcome of the same game that has no community cards; hence, nearly all card games can be played with or without having community cards without changing the scope of the game. Since having community cards is an insignificant part of a card game, any two card games that are vastly different from each other and have one or more community cards, like Perkins and my present invention, can be patentably distinct from each other. Accordingly, the rejection over Perkins is respectfully traversed.

Schaefer (5,882,009):

Schaefer teaches that a method of playing a wagering game between a dealer and one or more players includes the step of each player placing a first wager based on one or more card combinations selected from a fixed number of types of card combinations (Abstract). Preferably there are five types of combinations, four cards of a single suit, four cards of four different suits, one pair, two pairs and three cards of a single suit. After one or more first cards are revealed, the dealer appropriates wagers which are no longer winnable in view of these first cards. After at least said player placing a second wager based on the one or more card combinations, then one or more second cards are revealed, and the dealer subsequently appropriates wagers which are no longer winnable in view of the one or more second cards (Abstract). The play continues until a fixed number of cards are exposed (col. 2, lines 19-20). Accordingly, Schaefer discloses a game that players place wagers based on next revealed community card or cards which they think they will win, and the play repeats until a predetermined fixed number of cards

are exposed; requiring players constantly thinking and making decisions of Schaefer would ruin the fun of playing a card game; furthermore, this teaching does not provide players the fun of reading cards.

My present invention teaches that a method of playing a wagering game between a banker or dealer and one or more players includes the steps of after each said player placing at least one wager of Poker wager playing against the banker's hand and/or one or more side-bet wagers betting on the content of the player's own hand, each said player and the banker are each dealt six cards; each said player and the banker then select their best 5-card hand from their six dealt cards. A player's Poker wager wins if the player's best 5-card hand outranks the banker's best 5-card hand; a player's side-bet wager wins if the player's best 5-card hand is one of the predetermined winning hands. My present invention does not require players constantly think and make decisions, therefore it would not ruin the fun of playing; moreover it would enhance the fun of playing by allowing players to discard their worst card and by providing players the fun of reading 6 cards.

Moreover, Schaefer and my present invention disclose different game objectives and different methods of playing a card game, especially in one step that Schaefer requires players making multiple rounds of betting in a single play, while my present invention requires players making only one round of betting in a single play. Accordingly, my present invention discloses a method of playing a card game which is novel and clearly defined over the prior art of Schaefer.

CONCLUSION

I believe that the submission of a Terminal Disclaimer To Obviate A Provisional Double Patenting Rejection Over A Prior Patent and the foregoing Arguments are a complete response to the Office Action, they shall overcome all rejections over the cited prior art of records, and shall place my instant application in condition for allowance. I cordially invite the Examiner to contact me for a telephone interview regarding this case.

Respectfully submitted,



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Date: September 7, 2004.

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Specification

Please AMEND paragraph [0029] to the specification as follows:

[0029] Rules 4: If a Player's best 5-card hand ranks lower than the Banker's best 5-card hand or if the Player and the Banker have one of the predetermined Player losing copy hand hands (When a Player and the Banker have a same ranking hand, it is called a copy hand. When a Player and the Banker have a copy hand and that is considered a losing hand to the Player, it is called a Player losing copy hand.), then the Player's Poker Bet wager loses. If the Player and the Banker have a copy hand that is not one of the predetermined Player losing copy hands, then the two hands tie and this wager neither wins nor loses. If the Player's best 5-card hand ranks higher than the Banker's, this wager wins and is paid Even Money (1 to 1).

In the Claims:

5. (amended) The method of playing a card game according to claim 1¹ further including the step wherein the Players and the Banker each receives his or her six cards in the combination of his or her own card or cards and the community card or cards.

13. (amended) The method of playing a card game according to claim 1, wherein a Player's Poker Bet wager is settled against the Banker as follows:

If a Player's best 5-card hand ranks lower than the Banker's best 5-card hand, then the Player's Poker Bet wager loses¹.

If a Player's best 5-card hand ranks the same as the Banker's, then the two hands tie and this wager neither wins nor loses¹; and

If the Player's best 5-card hand ranks higher than the Banker's, this wager wins and is paid Even Money, namely 1 to 1, less a certain percent commission.

14. (amended) The method of playing a card game according to claim 1, wherein a Player's Poker Bet wager is settled against the Banker as follows:

If a Player's best 5-card hand ranks lower than the Banker's best 5-card hand, the Player's Poker Bet wager loses¹.

If a Player's best 5-card hand ranks the same as the Banker's, then the two hands tie and this wager neither wins nor loses¹; and

If the Player's best 5-card hand ranks higher than the Banker's, this wager wins and is paid Even Money, namely 1 to 1, less a 5% commission.

15. (amended) The method of playing a card game according to claim 1, where in a Player's Poker Bet wager is settled against the Banker as follows:

If if the Player's best 5-card hand ranks lower than the Banker's best 5-card hand, the Player's Poker Bet wager loses₁

If if the Player's best 5-card hand ranks the same as the Banker's, then the two hands tie and this wager neither wins nor loses₁ and

If if the Player's best 5-card hand ranks higher than the Banker's, this wager wins and either is paid even money, namely 1 to 1, if the Banker's losing hand is not a predetermined hand that pays one half of the winning wager, or is paid one half of the wager, namely 1 to 2, if the Dealer's losing hand is a predetermined hand that pays one half of the winning wager.

16. (amended) The method of playing a card game according to claim 1, wherein a Player's Poker Bet wager is settled against the Banker as follows:

If if the Player's best 5-card hand ranks lower than the Banker's best 5-card hand, the Player's Poker Bet wager loses₁

If if the Player's best 5-card hand ranks the same as the Banker's, then the two hands tie and this wager neither wins nor loses₁ and

If if the Player's best 5-card hand ranks higher than the Banker's, this wager wins and either is paid even money, namely 1 to 1, if the Player's losing hand is one of the predetermined hands that pays one half of the winning wager, namely 1 to 2, or is paid one half of the wager, namely 1 to 2, if the Dealer's losing hand is one of the predetermined hands that pays one half of the winning wager, namely 1 to 2.

17. (amended) The method of playing a card game according to claim 1, wherein a Player's Poker Bet wager is settled against the Banker as follows:

If if a Player's best 5-card hand ranks lower than the Banker's best 5-card hand or if the Player and the Banker have one of the predetermined Player losing copy hands, then the Player's Poker Bet wager loses₁

If if the Player and the Banker have a copy hand that is not one of the predetermined Player losing copy hands, this wager is a tie₁ and

If if the Player's best 5-card hand ranks higher than the Banker's best 5-card hand, this wager wins and is paid Even Money, namely 1 to 1.